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PAMELA A. SWIDERSKI
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South Bend, Indiana

KIRSCH, Judge

Angela Christian Shouse (“Mother”) appeals the involuntary termination of the parent-child relationship with her children T.R., A.S., S.W., and Z.S. (collectively, “the Children”) raising the following restated issue: whether the St. Joseph County Department of Child Services (“DCS”) provided clear and convincing evidence that there was a reasonable probability that the conditions that resulted in the Children’s removal would not be remedied.

We affirm.

FACTS AND PROCEDURAL HISTORY

Mother has four children: T.R., born November 19, 1997; A.S., born July 27, 2000; S.W., born September 17, 2002; and Z.S., born November 26, 2003.¹ DCS had initial contact with Mother in January 2005 when the South Bend Police Department, who had responded to a fire at Mother’s house, contacted DCS to report that Mother’s house was uninhabitable—specifically, that it had large amounts of trash and soiled diapers in it, the rooms were filled with stuff two to three feet high, some of the utilities were not working, and it was filled with insects. DCS investigator, Susan Cramer, contacted Mother about the reported condition of Mother’s house and offered services, but Mother indicated that she did not need services and was looking for alternative housing.

In September 2005, the DCS received another report regarding the poor condition of Mother’s house, which was a different house than the one that had the fire. The report

¹ T.R.’s father is Allen Reid, A.S.’s father is Carlos Simmons, and S.W. and Z.S.’s father is Angelo Williams. The Children’s fathers are not part of this appeal.

indicated that the house had minimal furniture and limited utilities and that the Children were filthy. DCS investigator, Kimberly Slaughter, went to Mother's house and found five-year-old A.S. playing outside. A.S. took the DCS worker to the door but was not able to get in the house because it was locked. A.S. knocked on the window, and three-year-old S.W. and almost two-year-old Z.S. opened the door. Mother came outside to talk with the DCS worker and would not let the worker inside the house. The DCS worker got a glimpse inside Mother's house and saw a sofa and a mattress inside the living room where Mother slept with the Children. When the DCS worker discussed services with Mother, Mother indicated that she did not think she needed the services but would be willing to participate in them. The DCS worker made a referral to Family Focus for home-based services and to work with Mother on parenting skills, in finding furniture, and with utility problems.

In late September 2005, Angie Back from Family Focus went to Mother's house for an appointment, but Mother did not answer the door. Mother was home for the following appointment date and hesitantly let Back into her house. When Back went into the house, she saw numerous cockroaches; minimal furniture (only a pull-out sofa and a television); a hole in the kitchen ceiling that looked like it was going to collapse; filthy, sticky carpet; and burn marks on the walls from where Mother had burned incense. Mother did not have any beds for the Children, did not have much food, and did not have gas being supplied to the house. Mother did not pay attention as three-year-old S.W. and almost two-year-old Z.S. were jumping off the sofa and rolling on the floor or as five-year-old A.S. was trying to make something to eat in the toaster oven. Mother refused

Family Focus services and told Back that she did not need parenting skills and that her children were fine.

Back returned to Mother's home in October 2005 and found the condition of Mother's home unchanged. Back offered to work with Mother on cleaning and parenting techniques, but Mother, again, refused services.

In October 2005, Mother went to a grocery store with the Children but left three-year-old S.W. behind at the store and did not realize that he was missing until over an hour later. When the security guard found S.W., he was filthy, and his diaper was soaked. Mother was arrested for neglect of a dependent, and the police department contacted DCS. The Children were temporarily placed with their maternal grandmother who lived with their great-grandfather, but they were then removed and placed in foster care.

In November 2005, the DCS filed a petition alleging that the Children were children in need of services ("CHINS") due to Mother's failure to provide adequate housing and supervision for the Children. During the initial CHINS hearing, Mother denied that the Children were CHINS. The trial court determined that the Children were CHINS and ordered Mother to do the following: (1) participate in individual counseling; (2) visit with the Children on a regular basis; (3) cooperate with home-based services; (4) complete parenting classes; (5) complete a parenting assessment and follow all recommendations; (6) complete a psychological evaluation and follow all recommendations; (7) complete a psychiatric evaluation; (8) maintain stable employment; (9) maintain stable housing; and (10) maintain consistent contact with DCS.

In December 2005, Back, the Family Focus worker, returned to Mother's house with the DCS case manager, Vera Martin. At that time, Mother still had roaches in her house and a gaping hole in her kitchen ceiling. Mother did, however, have a set of bunk beds. Mother told Back and Martin to leave the house when they tried to see if she had food available for the Children. Family Focus eventually terminated its case with Mother because she was uncooperative with accepting services. Mother also refused home-based services through Lifeline.

Mother was initially reluctant to participate in individual counseling but eventually did so upon the urging of the DCS case manager. Mother participated in parenting classes through Families First Center and worked with Peggy Rose, who was the parenting instructor and therapeutic visit supervisor. Mother missed some of her parenting classes, but she was able to complete the program.

Mother also participated in supervised visits with the Children at Families First Center, and Rose provided therapeutic supervision during these visits. The visits with the Children were "very, very chaotic[.]" *Tr.* at 14, and "out of control." *Id.* at 44. There were safety issues because the Children—specifically, the two younger ones, who were boys—would run wild around the room and have food fights, and Mother did not set limits or boundaries. The boys frequently had temper tantrums, banged their heads, threw their toys, and ignored and seemed uninterested in Mother. The oldest child, eight-year-old T.R., acted like the parent instead of Mother. Mother brought in massive amounts of food, tried to force it on the Children, and did not clean up when the Children made a mess with the food. Mother also had some problems with anger control and

would raise inappropriate adult topics with her daughters. Families First had to establish written guidelines for Mother's visits to clarify behaviors that she should do—such as interact with the Children, engage in appropriate topics of conversation, set appropriate limits, help clean up after visits, and be cooperative with the Families First Center staff—as well as behaviors she should not do—such as, yell at or threaten staff, use profanity, allow the Children to engage in unsafe behavior during the visit, and talk negatively about the foster parents, case manager, or anyone involved in the case. Eventually, Mother's visits had to be separated so that she would visit with the older girls, T.R. and A.S., one week and with the younger boys, S.W. and Z.S., the next week. Even during the separate visits, Mother was not able to set appropriate limitations on the Children. Visits with the Children were stopped around December 2006 or January 2007 upon the request of the girls' therapist and because Mother did not follow the established visitation guidelines.

On February 5, 2007, DCS filed petitions to terminate Mother's parental rights to the Children. The trial court held a hearing on DCS's petition on September 13, 2007. At the hearing, Peggy Rose, who provided parenting classes to Mother and therapeutic supervision during Mother's visits with the Children, testified that Mother had more bad visits than good visits with the Children. Rose explained that the boys, S.W. and Z.S., were well behaved when they were with their foster parents but that they would scream, yell, bite, kick, spit, and throw things and act like animals during their visits with Mother and that Mother was never really able to control the boys during her visits. Rose explained some of the safety concerns that she had about Mother, such as one visit where

Z.S. was choking on some hard candy that Mother gave him and one visit where Rose had to point out to Mother that S.W. should not put a plastic bag over his head. Rose testified that the boys did not appear to have a bond with Mother and that the girls, T.R. and A.S., appeared stressed during their visits with Mother and often kept on their coats during the visits. Rose also testified that Mother's mood during the visits was unpredictable—ranging from defensive, explosive, and threatening to pleasant and cooperative—and that sometimes Mother would stare into space and not be aware of what the Children were doing. Rose also testified that she was never able to recommend home visits with Mother because of safety issues and that Mother had difficulty parenting the Children even in a very structured setting with assistance.

Vera Martin, the DCS case manager, testified regarding Mother's compliance and noncompliance with the requirements of the dispositional order. Martin testified that Mother had not complied with the requirement to complete home-based services. Martin explained that she tried to explain to Mother the importance of home-based services and how it was the best route to getting the Children back, but that Mother was not willing to accept the services. Martin also testified that Mother had complied with the requirement to have a psychological and psychiatric evaluation and the requirement to have visits with the Children, but that Mother did not agree that some of her supervised visits went poorly or that she may have acted inappropriately during a visit. Martin testified that Mother had not met the requirements to have a stable home and job. Specifically, Martin testified that Mother had moved three or four times during the CHINS proceeding and was currently living with her mother and grandfather, but that Mother's current housing

situation was not sufficiently changed to allow the Children to return. Martin also explained that Mother had been fairly diligent in finding a job, but that she had problems with maintaining a job. Martin testified that Mother had not remedied the conditions that resulted in the removal of the Children and opined that Mother could not keep the Children safe.

Mother's therapist, Cindy McKay, testified that she started therapy sessions with Mother in November 2006 and that Mother blamed the DCS case worker for the Children being removed from her home. McKay testified that she was concerned about Mother's ability to assimilate new information and parenting skills due to her impulsivity and anger. McKay also testified that she had concerns about the safety of the Children. McKay indicated that it would take years of continued counseling to work on impulsivity and parenting skills before the Children could be safely returned to Mother.

During the hearing, Mother testified that she had been working at Burger King since February 2007 and that she was about to start working at an Italian restaurant. She testified that it had been difficult for her to hold onto a job in 2005 and 2006 because of how a boss may act or because "people lie on you[.]" *Id.* at 156. Mother also testified that she had moved residences every few months when she lost a job. Mother stated that she was living with her mother and grandfather but was getting her paperwork together to get public housing and was on a waiting list. Mother admitted that she did not use home-based services offered by Family Focus and said that she did not do so because she did not like the Family Focus worker's attitude. Mother also testified that Family Focus and DCS never offered her any services to help her with her house. Mother also stated that

her visits with the Children went “just fine” and that Peggy Rose’s testimony about the visits “was all lies.” *Id.* at 176.

On September 18, 2007, the trial court issued an order terminating Mother’s parental rights to the Children. Mother appealed the termination order. We remanded to the trial court with instructions to issue findings and conclusions in support of its decision to terminate Mother’s parental rights.² The trial court filed its findings and conclusions in support of the termination order with our court on April 2, 2008.

DISCUSSION AND DECISION

The purpose of terminating parental rights is to protect children, not to punish parents. *In re D.L.*, 814 N.E.2d 1022, 1027 (Ind. Ct. App. 2004), *trans. denied*. Parental rights are of a constitutional dimension, but the law provides for the termination of those rights when the parents are unable or unwilling to meet their parental responsibilities. *In re R.S.*, 774 N.E.2d 927, 930 (Ind. Ct. App. 2002), *trans. denied*.

Following remand, the trial court supported its order terminating the parental relationship between Mother and the Children with specific findings and conclusions. Thus, we engage in a two-tiered standard of review: first, we determine whether the evidence supports the findings; second, we decide whether the findings support the judgment. *In re W.B.*, 772 N.E.2d 522, 529 (Ind. Ct. App. 2002). We will not set aside the specific findings unless they are shown to be clearly erroneous. *Id.* A finding is clearly erroneous only when there are no facts or reasonable inferences in the record

² See March 3, 2008 Order.

supporting it. *Id.* In reviewing the record, we consider only the evidence and inferences favorable to the trial court's decision, without reweighing the evidence and without judging witness credibility. *Id.*

Mother argues that DCS failed to present sufficient evidence to support the termination of her parental rights. IC 31-35-2-4(b)(2) sets out the following relevant elements that DCS must allege and prove by clear and convincing evidence in order to terminate the parent-child relationship:

- (A) one (1) of the following exists:
 - (i) the child has been removed from the parent for at least six (6) months under a dispositional decree;
* * * * *
- (B) there is a reasonable probability that:
 - (i) the conditions that resulted in the child's removal or the reasons for placement outside the home of the parents will not be remedied; or
 - (ii) the continuation of the parent-child relationship poses a threat to the well-being of the child;
- (C) termination is in the best interests of the child; and
- (D) there is a satisfactory plan for the care and treatment of the child.

Because subsection (b)(2)(B) is written in the disjunctive, the trial court need only find either that the conditions causing removal will not be remedied or that the continuation of the parent-child relationship poses a threat to the child. *In re S.M.*, 840 N.E.2d 865, 868 (Ind. Ct. App. 2006).

Mother asserts that the termination of her parental rights was erroneous because DCS failed to prove that there was a reasonable probability that the conditions that resulted in the Children's removal or the reasons for placement outside the home will not be remedied. Specifically, Mother argues that the evidence does not support the trial

court's conclusion that the conditions that resulted in the Children's removal would not be remedied because she "met some of her case plan requirements" and testified that she was working and was on a waiting list for public housing. *Appellant's Br.* at 8.

To determine whether a reasonable probability exists that the conditions justifying a child's continued placement outside the home will not be remedied, the trial court must judge a parent's fitness to care for the child at the time of the termination hearing, taking into consideration any evidence of changed conditions. *In re A.N.J.*, 690 N.E.2d 716, 721 (Ind. Ct. App. 1997), *trans. denied*. The trial court must also evaluate the parent's habitual pattern of conduct to determine whether there is a substantial probability of future neglect or deprivation. *Id.* A trial court may properly consider evidence of a parent's prior criminal history, drug and alcohol abuse, history of neglect, failure to provide support, and lack of adequate employment and housing. *McBride v. Monroe County Office of Family & Children*, 798 N.E.2d 185, 199 (Ind. Ct. App. 2003). Additionally, the trial court can properly consider the services offered by DCS to the parent and the parent's response to those services as evidence of whether conditions will be remedied. *Id.*

In this case, the Children were initially removed from Mother's care in October 2005 when she left three-year-old S.W. in a grocery store and was arrested for neglect of a dependent. The DCS filed a petition alleging that the Children were CHINS due to Mother's failure to provide adequate housing and supervision for the Children.

The evidence introduced at the termination hearing reveals that after the Children were removed from Mother, she did participate in supervised visitations with the

Children; however, these visits were often chaotic, and Rose, the therapeutic visit supervisor, had to repeatedly intervene during visitations to ensure the Children's safety. Rose testified that she was never able to recommend home visits with Mother because of safety issues and that Mother had difficulty parenting the Children even in a very structured setting with assistance. Mother's therapist also testified that she had concerns about the safety of the Children in Mother's care and that it would take years of continued counseling to work on Mother's impulsivity and parenting skills before the Children could be safely returned to Mother. Moreover, the evidence reveals that Mother completely refused to accept any type of home-based service and had not been able to maintain stable housing or employment.

Based on the record before us, sufficient evidence existed to support the trial court's finding that there was a reasonable probability that the conditions that resulted in the Children's removal would not be remedied. We reverse a termination of parental rights "only upon a showing of 'clear error' — that which leaves us with a definite and firm conviction that a mistake has been made." *Egley v. Blackford County Dep't of Pub. Welfare*, 592 N.E.2d 1232, 1235 (Ind. 1992). We find no such error here and, therefore, affirm the trial court.

Affirmed.

RILEY, J., and MAY, J., concur.